

**FILED**

JUN 19 2008

1 In the United States District Court  
2 For the Northern District of California

RICHARD W. WIEKING  
CLERK U.S. DISTRICT COURT,  
NORTHERN DISTRICT OF CALIFORNIA

4 Pagtakhan ET AL  
5 v.  
6 Witt ET AL

Motion To File Attached  
Documents On Record (For Reference In  
Case Of Retaliation)

8 To: THE HONORABLE COURT IN

Case No. CV 08 2188 SI (PR)

9 THE ABOVE ENTITLED CAUSE

10 Please be advised that on  
11 the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_, at the hour of \_\_\_\_\_  
12 in the courtroom of the Honorable Judge Susan Illston,  
13 or as soon thereafter as this motion can be heard, plaintiff  
14 will move the court for an order to file attached doc-  
15 ments on record, for reference in case of reta-  
16 lliation.

17  
18 I, Marlon E. Pagtakhan, request that the court file  
19 the attached 12 page document into my file in case of  
20 any acts of retaliation. The attached document is a  
21 case regarding deputy Sheriff brutality that will be  
22 filed with the Eastern District Court in the next few  
23 days, that I compiled for a Michael A. Serger, versus  
24 the Sutter County Sheriff's Department ET AL.

25  
26 I declare under penalty of perjury that the foregoing is true  
27 and correct signed this 17th day of June, 2008.

28 Marlon E. Pagtakhan

1 COMPLAINT BY A PRISONER UNDER 42 U.S.C. § 1983

2 Michael A. Serger #2073138  
3 Napa State Hospital Q9  
4 2100 Napa Vallejo Hwy.  
5 Napa, Ca. 94558

6  
7 United States District Court  
8 Eastern District Of California  
9

10 Michael A. Serger

11 vs.

12 deputy Sheriff Adams

13 deputy Sheriff Barnec

14 deputy Sheriff Simpson

15 deputy Sheriff John Doe

16 deputy Sheriff Kehoe (Sergeant)

17 Sutter County Sheriff's Department

18 (all in their official capacities)

19 County of Sutter

20 Case No. \_\_\_\_\_

(To be provided by the Clerk of Court)

21 COMPLAINT UNDER THE  
22 CIVIL RIGHTS ACT,  
23 Title 42 U.S.C. § 1983

24 I. A. No

25 B. n/a

26 (subsections for B. #'s 1 through 7 n/a)

27 II. A. Yes

28 B. Yes, complaints were filed in Sutter County Jail.

C. My Sutter County Jail complaints were neglected.  
(a claim against Sutter County was filed on 5/2/08)

29 COMPLAINT

30 [1]

III. A. deputy Sheriff "John" Adams,  
Superior Court of Sutter County

B. deputy Sheriff "John" Barnec,  
Superior Court of Sutter County

deputy Sheriff "John" Simpson,  
Sutter County Jail

deputy Sheriff "John Doe",  
Sutter County Jail

Sergeant deputy Sheriff "John" Kehoe,  
Sutter County Jail

Sutter County Sheriff's Department  
1077 Civic Center Blvd. (possible address)  
Yuba City, Ca. 95993

# County of Sutter

Clerk of the Board of Supervisors  
1160 Civic Center Blvd., Ste. A  
Yuba City, Ca. 95993

IV. (1) On June 11, 2007, deputy Adams did willfully and unlawfully strike with excessive force, Mr. Serger on his lower back, in an effort to move the plaintiff

## COMPLAINT

2

1 forward, while on transport from a holding  
2 tank to the Superior Court of County of  
3 Sutter for a court appearance. On the  
4 way up the stairs, about halfway, deputy  
5 Adams again struck Serger in the same  
6 manner, all the while Serger was chained  
7 and shackled.

8  
9 (2) On August 6, 2007, deputy Barnec  
10 did willfully and unlawfully strike with  
11 excessive force, Mr. Serger, on his lower  
12 right backside, as he was attempting to ch-  
13 ain Serger to a wall while he was seated  
14 on the bench. Barnec was commanding  
15 Serger to move left on the bench when  
16 he struck twice which felt to Serger as  
17 a metal object. There were several inma-  
18 tes present and Serger was eventually  
19 chained to the wall after he was already  
20 shackled. One declaration from an inmate  
21 witness states Barnec slamming Serger  
22 onto the bench, expiditing Serger who  
23 was already complying to obey the comm-  
24 and. This occurring in the Sutter County  
25 Courthouse basement after an appearance  
26

27 (3) On November 5, 2007, Serger was  
28 called from his cell for a visit. When Ser-

1 Serger was outside the visiting center waiting,  
2 Deputy Simpson commanded him to stand  
3 at a certain spot. Simpson then left. Deputy  
4 John Doe then commanded him to stand  
5 elsewhere. Simpson upon return asked  
6 Serger, "Why are you standing there? I  
7 told you to stand right there!" (pointing)  
8 Serger then complied moving the four feet di-  
9 stance required by Simpson. Sergeant Ke-  
10 hoe then grabbed Serger on his left after  
11 he appeared on the scene, ordering the two  
12 to take Serger back to his cell. One of the  
13 two grabbed his right (Serger's) arm. Ser-  
14 ger was shackled holding legal work (pape-  
15 rs) for his visit. Hocking Serger they dragg-  
16 ed him down the long hallway back to his ce-  
17 ll with excessive and unnecessary force. W-  
18 hen Serger cried out "Stop! I'll walk! I'll  
19 walk!" The two officers jokingly comande-  
20 d "Walk! Walk!" while they continued to  
21 drag Serger in a way that made walking  
22 impossible. Upon arrival to Serger's cell #  
23 A7, he was slammed down on the floor  
24 face first while shackled. Serger cried  
25 out that he was hurting. Kehoe then took  
26 a position to Serger's right, going down to  
27 one knee uncuffing Serger's hand. (left)  
28 Serger put his left hand on the floor before  
**COMPLAINT**

1 him. As he did so, Kehoe grabbed Serger by  
2 the hair and repeatedly punched Serger on Serger's jaw and right side of the  
3 face. As he was attacked, Serger tried  
4 to make way under the bunk for protection  
5 with his free left hand. Crying "Please!  
6 Please! Stop! Stop!", Kehoe then put  
7 two fingers into Serger's nose and forced Serger's head upwards, stopping him  
8 from crying aloud. Serger then complied  
9 with orders and put his left hand back behind  
10 him. Blacking out, Serger was unaware  
11 of what then transpired. (deputy Bishop  
12 op, who Serger believes is an honest  
13 officer, must have witnessed this beat-  
14 ing from the "bubble" surveillance area.)  
15 a) Sometime later Serger woke up when  
16 food was delivered. He still remained  
17 on the floor. A tray containing a ham-  
18 burger was layed before him. He tugged  
19 a mat (makeshift bed) from the bunk  
20 so that he may lay his head on it. He re-  
21 ached for the tray with his foot and b-  
22rought it towards him putting it underhi-  
23 s bed. Then he slept a few hours. Upon w-  
24 aking, he was made fun of by other  
25 inmates through the vent. This continue-  
26 d from about 1-4 pm. At about 6 o'clock  
27 COMPLAINT [5]

1      deputy Wicker (acting as a nurse) inspec-  
2      ted Serger's face and jaw. She the neg-  
3      ligently told him it was "okay". After  
4      repeated requests he was denied medi-  
5      cal attention. (Physical exams and X-  
6      rays here at NSH have concluded that  
7      Serger suffered a broken jaw and at le-  
8      ast 3 fractured ribs.)

9  
10     (4) The Sutter County's Sheriff Dep-  
11     artment has failed to adequately train  
12     and supervise it's employees. Serger  
13     has made several complaints and req-  
14     uested medical attention to no avail.  
15     They are monetary liable for damages  
16     it's employees have caused. (negligence)

17  
18     (5) The County of Sutter has failed to  
19     supervise the Sheriff's Department and  
20     monitor any of it's corrupted practices.  
21     It is monetary liable for any damages it's  
22     public employees have caused. (negligence)

23  
24     V. As a result of these Public Employees  
25     and Entities; General Negligence and  
26     Intentional Torts in acts of assault an-  
27     d battery, and refusal of providing me-  
28     dical attention, violating Michael PA.

COMPLAINT

1 Serger's Civil Rights in gross violations  
 2 of state and federal statutes and law,  
 3 the plaintiff seeks injunctive relief, and  
 4 monetary damages as follows:  
 5

6 Injunctive Relief:

7  
 8 • Serger requests an injunction, ordering  
 9 the said defendants to refrain from  
 10 taunting, mocking, harassing, and  
 11 committing acts of assault and battery  
 12 against him. (Serger has poor syntax  
 13 and may be an easy target <sup>for</sup> corrupted off-  
 14 icers, but is sane and knows when he is  
 15 being wronged.)  
 16

17 Monetary Damages:  
 18

19	• Broken Jaw	20,000
20	at least 3 Fractured Ribs	60,000
21	(according to X-rays taken in 12/07 and patient's rights documents)	
22		
23	• Pain and Suffering	80,000
24	• Civil Rights Violations	<u>1,000,000</u>
25	(punitive)	
26		\$ 1,160,000

27  
 28 Serger would settle for appropriate judgement.  
 COMPLAINT [7]

I, Michael A. Serger, declare under  
penalty of perjury that the foregoing  
is true and correct.

Signed this 10th day of June,  
2008.

Michael A. Serger  
Michael A. Serger

I, Marlon Pagtakhan, acting as a layman advocate, helped the plaintiff Michael A. Serger to the best of my ability in compiling this complaint.

6/10/2008

Dated

Marlon Pagtakhan  
Marlon Pagtakhan

Michael A. Serger #2073138  
Napa State Hospital Q9  
2100 Napa Vallejo Hwy.  
Napa, Ca. 94558

Attachments include an application for  
counsel, order to show cause & TRO, and affidavit.  
**COMPLAINT** [8]

In the United States District Court  
For the Eastern District Of California

Michael A. Serger

v.

Sutter County Sheriff's  
Department ETAL

Application For Appoint-  
ment OF Counsel  
No. \_\_\_\_\_

Michael A. Serger #2073138  
Napa State Hospital Q9  
2100 Napa Vallejo Hwy.  
Napa, Ca. 94558

I need a lawyer as I am disabled, do not have adequate resources (material & law library), have trouble speaking, and do not know the law well.

I declare under penalties of perjury that the foregoing is true. I understand that if assigned a lawyer, and that my lawyer learns I can afford a lawyer, he/she may submit this information to the court. If my answers on my application to Proceed in Forma Pauperis are false, my civil rights action may be dismissed.

Signed on this 15th day of June, 2008.

Michael Arthur Serger  
Michael Arthur Serger

1      ORDER TO SHOW CAUSE AND TEMPORARY ORDER ("TRO")  
2  
3  
4

5  
6      In the United States District Court  
7      For the Eastern District Of California  
8  
9

10     Michael A. Serger  
11     v.  
12

13     Sutter County Sheriff's  
14     Department ET AL  
15

16     Order to Show Cause for  
17     Preliminary Injunction and  
18     Temporary Restraining Order  
19     Civil Action No. \_\_\_\_\_  
20

21     Upon the complaint, supporting affidavits of plaintiff  
22     filed and sworn to the 15th day of June, 2008, and the  
23     memorandum of law submitted herewith, it is:  
24

25     **ORDERED** that the above named defendants A-  
26     dams, Barnes, Simpson, "John Doe", Kehoe, sh-  
27     ow cause in room \_\_\_\_\_ of the United States C-  
28     ourthouse, 501 I St., Sacramento, California 9-  
29     5814, on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, at \_\_\_\_\_  
30     o'clock, or as soon thereafter as counsel may  
31     be heard, why preliminary injunction should  
32     not issue pursuant to Rule 65(a) of the Feder-  
33     al Rules of Civil Procedure enjoining the defe-  
34     ndants, their successors in office, agents and  
35     employees and all other persons acting in con-  
36     cert or participation with them, are restraine  
37     d from taunting, mocking, harassing, and com-  
38     mitting acts of assault and battery against  
39     [1]  
40

1  
2 him. (Michael A. Serger)  
3

4 **IT IS FURTHER ORDERED** that effective imme-  
5 diately, and pending the hearing and determina-  
6 tion of this order to show cause, the def-  
7 endants Adams, Barnes, Simpson, "John Do-  
8 e", Kehoe, and each of their officers, agents  
9 , employees, and all persons acting in concor-  
10 or participation with them, are restrained f-  
11 rom taunting, mocking, harassing, and commi-  
12 ting acts of assault and battery against M-  
13 ichael A. Serger.

14  
15 **IT IS FURTHER ORDERED** that personal ser-  
16 vice of a copy of this order and annexed affi-  
17 davit upon the defendants or his counsel on  
18 or before \_\_\_\_\_, shall be deemed good and  
19 sufficient service thereof.

20  
21  
22  
23  
24  
25 Dated :  
26 United States District Judge  
27  
28

In the United States District Court  
For the Eastern District Of California

Michael A. Serger

v.

Sutter County Sheriff's  
Department ET AL

AFFIDAVIT

Civil Action No. \_\_\_\_\_

AFFIDAVIT OF MICHAELA. SERGER

I, Michael Arthur Serger, being duly sworn according to the law depose and say that I am the Plaintiff in the above entitled proceeding.

I fear for my life, and person, having already been beaten (assaulted) by the said defendants and feel I will be further assaulted and beaten if federal injunctive relief is not granted. My complaints were unanswered.

All of the information I have submitted in support of my request is true and correct.

Sworn to before me this \_\_\_\_ day of \_\_\_, 2008.

NOTARY PUBLIC

[ ]

Sign here before notary public

FILED  
06 JUN 19 PM12:27  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

*Proof of Service - Mail*

**PROOF OF SERVICE**

Re: Case Number CV 08 2188 SI(PR)  
Case Title Pagtakhan ET AL  
v. Witt ET AL

I hereby declare that I am a citizen of the United States, am over 18 years of age, and am ~~am not~~ a party in the above-entitled action. I am ~~employed in~~ reside in the County of ???? and my ~~business~~ residence address is

Napa State Hospital Q9, 2100 Napa  
Vallejo Hwy., Napa, Ca. 94558-16293

On 6/17/08, I served the attached document described as a motion to file attached documents on record (1 page), attached document (12 pages)

on the parties in the above-named case. I did this by enclosing true copies of the document in sealed envelopes with postage fully prepaid thereon. I then placed the envelopes in a U.S. Postal Service mailbox in Napa State Hospital, California, addressed as follows:

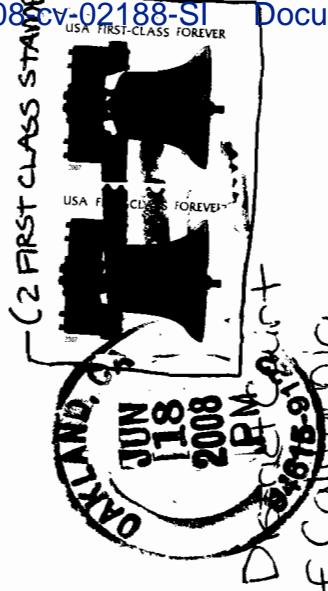
Office of the Clerk, U.S. District Court  
Northern District of California  
450 Golden Gate Avenue  
San Francisco, California 94102

I, Marlon Estacio Pagtakhan, declare under penalty of perjury that the foregoing is true and correct.

Executed on June 17th, 2008, at Napa State Hospital  
Napa, California.

Marlon E. Pagtakhan  
Signature

Marion E. Poston  
NAPA STATE HOSPITAL 2074227  
2100 NAPA VALLEJO HWY.  
NAPA, CA 94558-6293



Office of the Clerk, U.S. District Court  
Northern District of California  
450 Golden Gate Avenue  
San Francisco, California 94102

(LEGAL MAIL)